

PAPER 8

A Most Excellent Man of the Name of Cleary

D.W. Martin

INTRODUCTION:

When Dr Polding visited Maryborough in 1858, he spoke of James Cleary as 'a most excellent man' When I was appointed there 120 years later I was curious to find out about him.

The following is the result....

It seems that the name and good works of Mr James Cleary of Maryborough could well have slipped into oblivion except perhaps for Archbishop Polding's description of him as "a most excellent man of the name of Cleary, a great friend too, and protector of the aborigines".¹ Not only is there no appropriate reminder of this generous benefactor to the early Catholic Church in Maryborough, but neither does local history provide more than a passing reference to his enterprise as a pioneer of the Wide Bay settlement.

Who then was Mr. James Cleary? He was a son of James Cleary, a carpenter, and Mary Deleny, and was born in the year 1794 in the little village of Lorrha (Lorah) at the head of Lough Derg in County Tipperary, Ireland. The ruins of two churches and one monastery in Lorrha bear testimony to over one thousand years of the troubled history of the ancient faith of St Patrick. The Gaelic name "O'Cléirigh" meaning "grandson of the scribe", is renowned among scholars, principally for the O'Cleary contributions to the chronicles known as "The Four Masters".

There were others in the Cleary Family - the known ones being John, Mary, Daniel (b.1800) and Joseph (b.1806). Young James, true to Cleary tradition, was educated beyond the reading and writing standard, and retained a lifelong interest in the education of others.

Strangely very little is known about the first two-thirds of his life. It seems that he emigrated possibly to Sydney in about 1840 when he was about 45 years of age. He obviously had some experience in colonial farming and grazing by the time he moved up to the Wide Bay settlement.²

The next established fact is that James Cleary passed through Brisbane in c. 1848³ and was resident in the settlement of Maryborough on the Mary River by 1849. George Loyau in his "History of Maryborough" lists him as a Pioneer Resident at the old Township, 1849 to 1852.⁴ He also lists him as a pioneer settler of land across the Mary River at Tinana where he "established the boiling-down" in the locality of Eton Vale.⁵ This boiling-down plant was near the present Tinana Hall where the Maryborough-Gympie Road crosses the Schultz Bridge.

Labatt's survey of the old town of Maryborough dated 27th September 1850, shows the names of only three large landholders - Palmer, Furber and Cleary. The Cleary land is the river bank opposite the foot of Baddow Island and the notation is 'cleared scrub'. A small square indicates the position of a house.

After the survey of the new site for the town of Maryborough, allotments of land were put up for sale. Most residents of the old township gradually acquired town lots and moved in. James Cleary purchased allotments 5, 6 and 7 of Section 84 in December of 1851. The Indentures are dated 17th May 1852. Each allotment cost 3 pounds. Three years later he purchased for the same price each, the three adjoining allotments 14, 15 and 16. The total area of 3 acres between Adelaide and Bazaar Streets is now occupied by St Mary's Church. In the early 1850s he tendered for several runs but was knocked back.

James Cleary never moved. A new arrival to the 'old town' in the year 1853 has left the following account:-

Each one in the morning.... had an opportunity of walking out to see the features of the country, and what progress had been made in agriculture by the first settlers, but nothing of this kind could be seen beyond a small patch of garden cultivated for the use of the kitchen of the "Bush", (i.e. Aldridge's "Bush Inn") with a few valuable tropical plants and trees, and small plots, as gardens, cultivated by two of the police, until we followed the river bank down a short distance, when we came across the house of Mr. Cleary. There this pioneer of the settlement had by the assistance of the darkies, cultivated a few acres in the middle of the then existing dense scrub. To this gentleman the few inhabitants had to look for whatever vegetables they might require, and of course had to

pay handsomely for what they got. Here then was the extent of cultivation if we except the magistrate's garden, until crossing over to Tinana Creek, the residence of the commissioner for crown lands.....⁶

In first class handwriting, James Cleary "protector of the aborigines" wrote as follows to the Collector of Customs, Mr. William Augustine Duncan, in Brisbane:-

Maryborough
Wide Bay
May 4th, 1853
Sir,

I believe it is the custom in many parts of the Colony, where the land has been sold, to give a certain number of blankets annually to such of the Aborigines as conduct themselves well.

Two land sales have taken place at Maryborough.

I would therefore respectfully solicit your influence with the Government to obtain a grant of blankets (say a dozen for the first year) to be distributed among such of the Aborigines as shall merit them by their good behaviour.

Many persons keep one or two Blacks on their premises for the purpose of bringing in wood and water, to drive in the horses when required, or do any light work.

Among these I would propose to give the blankets, as a reward for their good behaviour.

It would also be an inducement to others of the Tribe to work and be less troublesome.

As Dr Palmer attends the Aborigines when sick, I would propose that he should distribute the blankets either at his own discretion or under the superintendence of the Police Magistrate who will shortly be appointed for this District.

I think the best time for distribution would be on the 25th of March.

I remain, Sir,
Your very obedient Servant
James Cleary

To Mr. W. Duncan Esq . J.P.
North Brisbane".⁷

While local history books record James Cleary as “the first farmer”, “the first dairy farmer”, “the first to import cattle into Wide Bay” and “as owning surrounding land on which cattle were grazed”, other sources illustrate his generosity to and involvement with the Church.

Although Fr. James Hanly from Brisbane first visited Maryborough in 1849, it was not till August of 1852 that he celebrated the first Mass there. “The congregation numbering about thirty souls gathered in the slab house of the chief constable, Sergt. McAdam”⁸. James Cleary would surely have been there.

Some few years later, the need was felt for a Church building. Loyau says that “in 1856 Dean Hanly accepted the tender of Linklater and Thompson for a wooden church to seat 300 people.”⁹ It is possible that this church - school was to be built on the government land grant (now the site of Woolworths)¹⁰ but in 1857 “the development of the town was set back¹¹ for some months by a terrific hurricane and consequent flood.¹²” It is an opinion that after the flooding of the granted land, James Cleary came forward and gave his 3 acres of town land (Section 84) almost opposite and on the higher side of Adelaide Street.

In the leading Catholic newspaper of the time, the Sydney “Freeman’s Journal” there are references to James Cleary’s generosity. That paper of 16th February, 1856 reports:-

All Hallows College. James Cleary, Maryborough, Wide Bay contributed 10 pounds to the above college per year for the education of clergymen for the colonial missions. It sets a good example to all Catholics.

The issue of 5th July the same year, noted James Cleary of Maryborough contributed 2 pounds to the Gavin Duffy Property Qualification Fund, a benefit organized in Victoria by Charles Gavin Duffy to assist the small man settle the land and have the right to vote.

The same paper of 27th February 1858 says that James Cleary is the Secretary of the movement to build the school: "Subscriptions for the school house at Maryborough, James Cleary, 10 pounds."

"Built of wood, shingle roof and wood floor", the school-house was completed during 1858. It served as the Mass centre when Dean Rigney was in town. Schooling commenced about the middle of that year, the teacher appointed "and considered competent" being none other than James Cleary. Dean Rigney had the school and its teacher recognized by the Denominational School Board.

In November of 1858 the great missionary Bishop and first Archbishop of Sydney, Dr. Polding, visited Maryborough and met James Cleary. The Archbishop wrote:-

I am so far on my way to Sydney after a ride of some 600 miles through those large squatting districts from which the native inhabitants are disappearing to make room for sheep and cattle. Still there remain considerable numbers chiefly about the small towns and stations. At Maryborough on the Mary River, in the County of March, I found a most excellent man of the name of Cleary, a great friend too and protector of the aborigines. He is a single man and has made his will in favour of the Church, or rather made over to the Church the property on which he resides, being a house such as you find in the bush and twenty-eight acres of the richest land. He has retained only a life interest in it, but the Bishop, when he comes, will be its occupant until another residence may be raised. Here he has a large number of natives in employment. I saw many engaged in cutting a large dyke, whilst the women and children were busy weeding a piece of land in preparation for corn. He gives them flour and tobacco, sometimes meat. This is on one side of the River Mary. On the other side is his run 16 miles by 7, with scrub containing opossum and other native animals. This, he considers, and I also, the best place for the establishment of the mission in the first instance, as it is divided from the town by the river, and is not likely to be intruded upon ... I think that Maryborough would form in many respects a better title to a See than Gladstone ¹².

So after nearly ten years of pioneering life James Cleary is completely settled on his farm a little out of Maryborough; he owns a large cattle run and other properties "in the back country"; the church-school is built on his donated land "in town"; and at over 60 years of age, he has made his Will leaving almost everything to the Church. In fact the Church was to be so generously endowed

that Archbishop Polding foresaw both the establishment of a Maryborough diocese and an Aboriginal mission.

Unfortunately changing circumstances were soon to lead to misunderstandings and confusion.

The name "James Cleary" was entered as the sponsor for a few of Dean Rigney's baptisms of 1858, 1859 and 1860, but from 1859 other Clearys begin to appear in the register¹³. A Daniel Cleary becomes the lay teacher for the Catholic school and also the Maryborough correspondent for the "Freeman's Journal".

Sometime during 1859 James' brother Daniel with his wife Bridget and their four children moved to live in Maryborough. The family had arrived in Sydney from Tipperary by the ship "Sea" in September of 1849. James divided his farm "Lorah" at West Maryborough and continued to live in "the house such as you find in the bush". Daniel Cleary's half was called "Ormond" and the dividing fence became known as "the James Cleary Junior's fence". The reason for this is that Daniel's two sons James (b 1840) and Joseph (b 1843) assume the responsibilities as Daniel died in March of 1862. He was buried in the old township cemetery by Fr Tissot.

The early Maryborough papers report on some of James Cleary's other involvements in the early 1860's. It also becomes apparent that Mr Cleary was difficult to work with.

The "Wide Bay & Burnett Times" of 22nd August 1860 records that "John Purser and James Cleary have been placed on the Board of Directors of the Maryborough and Wide Bay Cotton Growing Association". In the first local election on 26th April 1861 he was elected one of the six aldermen, referred to as "Mr Alderman James Cleary". Various reports claim he "was frequently out of order in Council." Not long after, the Mayor Henry Palmer, was forced to resign because of "Alderman Cleary's goings on". In May of 1861 the Council applied to a bank for a cash credit of 5,000 pounds - one of the five guarantors was James Cleary.

The "Maryborough Chronicle" of Wednesday 28th November 1860 under the heading "An Inquiry into the Conduct of Mr Commissioner Halloran" provides some information on the Cleary land holdings. The investigation centred on whether or not Halloran had trafficked in Crown lands, and in particular in the sale of the run "Warro".

By 1860 James Cleary had already disposed of the “Warro Run” which was on Stony Creek, about 23 miles north west of Maryborough. At the inquest he said he gave the “Warro Run” to Reggy Halloran (the son of the Commissioner) as he was going to get another on the other side of the river. Commissioner Halloran then sold “Warro” to Dr. Alexander Hamilton for 100 pounds. Dr Hamilton said:-

I got a receipt for the money and returned to Wide Bay. I called at James Cleary’s house and had a conversation with him about the “Warro Run.” I told Cleary I was going to see the Run I had purchased from him: he said, ‘I did not sell the run’. I told him I paid 100 pounds for it. Cleary said, ‘I gave the Run to Reggy Halloran’.

When examined by Mr. Halloran, James Cleary said:-

I tendered for a run on Stony Creek called “Warro” at the latter end of 1858. I gave it to Reggy Halloran, I suppose about a year before I received notice from the Solicitor-General. I tendered for a run on the other side of the river called “Boona” in 1857; I have two blocks of land upon the back country. I transferred the right, title and interest of “Warro” to young Halloran. I had possession of the accepted tender for “Boona” at the time I transferred the country to Mr. Halloran.

It was also revealed that “the country about Tinana on the bank of the river opposite to the police camp is let on annual leases to Mr. Cleary and Mr. Eaton and is stocked by Mr. Eaton”.

Cleary had also tendered for land on Tinana Creek. A conversation on 16th January 1859 revealed that “these tenders had been placed some time before”.

At the time of the inquest Mr Halloran, the Commissioner of Lands, was himself living near Tinana Creek in his predecessor Bidwill’s house. Bidwill had settled there in 1849 “and concerned that there was an aboriginal camp close by, he had a five foot high palisade erected, to enclose his house and garden and kept his pistol ready”.¹⁴ Halloran moved in, in 1853, and he solved the ‘aboriginal problem’ in a way that would surely have displeased James Cleary: Halloran had a detachment of Native Police disperse the aborigines from nearby and destroy their camp.

The Run described by Archbishop Polding in November 1858 as 16 miles by 7 and “divided from the town by the river” appears to have been “Boona” on

Tinana Creek for which Cleary had tendered in 1857. The “two blocks upon the back country” were “Marianna” and “Burrum”. There is also a reference to “his cattle grazing upon the “Wongi”. Of “Marianna” it was said: “It was always a great harbourage for aborigines, and their hostility was a drawback to first settlement”.¹⁵

In May of 1861, Bishop James Quinn arrived in Brisbane. Two months later, accompanied by Frs. Renehan and Tissot he made his first visit to Maryborough. There he met James Cleary. He learned that the Will, formerly so favourable to the Church, would now have to take into consideration other members of the Cleary family! He felt betrayed, but was not going to let the matter rest there. Fr Tissot, a member of the French Augustinians of the Assumption Order remained behind as first resident Priest in Marlborough.

In a letter back to France, Fr. Tissot describes how he and his assistant, Br. Francisco, stayed at “Lorah” with “a prosperous and wealthy Catholic farmer willing to give generously to the local mission and to the diocese and at the same time to maintain the Maryborough clergy. Mr Cleary provides us with food. In return for his keep, Br. Francisco acts as Mr. Cleary’s official servant. He looks after the garden and keeps an eye on the Aborigines who work for Mr. Cleary. He helps to bring the cattle home and every evening he recites the Rosary with Mr. Cleary’s nephew. He is also kept busy in the kitchen and chicken run and sees to the storing of the necessary water and wood”.¹⁶

By the end of 1862, Fr Tissot feels the need for a “separate house” as “the present situation is unsatisfactory”. He is hopeful that Mr. Cleary might give some land to enable more Augustinians of the Assumption Priests and Brothers set up a community. He saw too the need for a new Church and school for which the people would have to find the money but “without upsetting Mr. Cleary”.¹⁷

Writing in February of 1863, Fr. Tissot says:-

Our situation has completely changed. Our host Mr. Cleary, intends auctioning the lease of his land for seven or eight years as he talks of moving to Sydney.¹⁸

It appears that Mr. Cleary gave some land to Fr. Tissot. It was four allotments (17, 18, 19 and 20) of Section 62 formerly part of the 295 acres purchased in 1860 for the Maryborough and Wide Bay Cotton Growing Association.

James Cleary and John Eaton were trustees. The land was in Fort St. between Queen and Ann Streets.

The accommodation problem was solved but Mr. Cleary never moved from "Lorah".

The Will problem remained. In a private letter of 28th April 1862, the Bishop wrote from Brisbane to his acting Vicar-General, Fr. Scully, then in Maryborough, instructing him to have the Cleary Will formally and legally drawn up.

The reason given is because Mr. Cleary "is peculiar" and hence "the necessity of having things well done where there is question of any business arrangements with him". Relevant extracts reveal his frustration and determination not to miss out:-

Whatever Mr. Cleary leaves for Church purposes I shall use for the Church in Maryborough Before you left here I explained to you that Cleary, had for many years left his whole property to the Church '*intentionaliter* : ' and moreover had openly told me of his intention and so far as words go, had promised to give up his whole property for Church purposes, and I accepted that promise. There was nothing formal, of course, between us, as I never anticipated his altering an intention he had for years formed and declared to the Archbishop and others as well as to me. When speaking to me he hinted that he should do something for his nephews the young men who live next him with their mother, the father having died lately - but this was something of a secondary character, the primary object for which the bulk of his property was to go being still the Church. When Fr. Renehan was in Maryborough, he spoke of leaving his cattle and Run to the nephews and obliging them to pay me, or the Church 1,000 pounds. This is quite different from what he intended to do when speaking with me. He gave me a Bill for 1,000 pounds to enable me to demand a Grammar School for Maryborough, but as the Grammar School Act was not carried out in our favour, of course, I made no use of the Bill. When giving it to me he said "What matter if all goes to all we can make it up by selling about four or five hundred head of cattle - sure sooner or later it's all for the Church". The meaning of this was that if no-one contributed anything but himself - there was talk of Sheridan and others contributing and promises given - he could easily pay the whole sum out of his cattle property which he intended as well as other property for the Church. To be short, if he does not leave his cattle and Run to the Church, I cannot but regard him as taking back what he had already given to God.

I have been diffuse on this subject, but it is necessary to give you a clear view of it, and I hope I have succeeded in doing so. I mean you to use the information I give as your prudence directs. You know the man is peculiar and cannot be driven. He is growing old and softening towards those about him.

You will do well to complete the matter before you leave, and in the most favourable terms to religion you can obtain. My object in entering into such details is to let you see you will not be doing any injury to his relatives in pressing him, because of his own free will he will be already in substance, though not in form, handing over his property to the Church.

Before leaving Mr. Cleary I may as well dispose of the horse affair. We left his pony at Mr. Frank Connolly's of Gayndah. He had given us the mare to take with us as far as we required her - the whole way if necessary. She got a sore back and we had to leave her, borrowing another in her place for which we have equal blame. Cleary's mare is now well and much improved and at his disposal whenever he takes the trouble of telling the postman to call for her. What you may think strange - he knows all this perfectly well, Fr. Renehan having explained it to him on his return. This will give you an insight into the character of the man and the necessity of having things well done where there is question of any business arrangements with him.

I have the deeds of transfer of the five allotments not acres - transferred to Rev Mr. Renehan by Mr. Cleary.

If Cleary leaves a charge of 1,000 pounds or any other sum for the Church on his cattle and station to be paid by nephews, it will not be worth to the Church as many shillings. You have too much sense and experience to require any proof of that. How could we recover it from them? We should have against us not only the members of Cleary's family, but all Protestants and some portion of Catholic Society. It is therefore most desirable that no part of his Will in favour of the Church should be left to his nephews or any other person to carry out. If possible get him to do now what he would have others do hereafter....

+ J. Quinn"¹⁹

The affair dragged on for some years and threatened to escalate. The Bishop was simultaneously involved in a dispute with Fr. McGinty and the Church trustees at Ipswich. They refused to sign over the Church funds. At a meeting in Ipswich in August of 1862 the Bishop's spokesman, Dr. Kevin O'Doherty, said: "In Queensland as in the other colonies, it appeared that the arrival of a Bishop was to be a signal for a scrimmage. It was so on the arrival of the Archbishop of New South Wales, in Tasmania, and in South Australia the like results had followed. He was sorry that such scenes had occurred in Ipswich and would have thought them better fitted for Maryborough".²⁰

On 8th May 1863, James Cleary drew up another Will. Bishop Quinn and the Church were not entirely overlooked:-

Maryborough
Wide Bay
Brisbane

This is the Last Will and Testament of James Cleary, of Maryborough, Wide Bay, in the Colony (State) of Queensland.

1. I give and bequeath to the Right Reverend Dr. Quinn, Roman Catholic Bishop of Queensland: three lots of land situated in Bazaar Road, with the numbers 5, 6 and 7 of Section 84.

To the same Rt. Rev. Dr. Quinn: three other plots of land situated in Adelaide Road, and having the numbers 14, 15 and 16 of the same Section 84.

To the same Rt. Rev. Dr. Quinn: my property of Lorah, consisting in 25 acres of land - and the house I live in, with all its out-buildings.

To the same Rt. Rev. Dr. Quinn: half of the horned cattle grazing in the Wongi.

2. I give and bequeath to my brother, Joseph Cleary of Fremantle, Western Australia: a sum of 70 pounds, owing to me by various people (sums are detailed) whose names follow (five in all) living in Maryborough.

To the same Joseph Cleary, my brother, I give all my rights, interests and shares in the Cotton Culture Company of Maryborough.

3. I give and bequeath to my nephew, James Cleary, actually living in Maryborough: half of the horned cattle now grazing in the Wongi - with all my rights to acquire a "station" or "stock-farm" in the same area.

4. As for my household goods (excepting cash): I divide them in three equal parts as follows:

A third to Rt. Rev. Dr. Quinn, above mentioned.

A third to my brother, Joseph Cleary.

A third to my nephew, James Cleary.

5. As to cash, I divide it and leave it as follows:

The expenses of my funeral to be paid from above cash. I leave the sum of 5 pounds to every R/C priest assisting at my funeral.

I leave the sum of 20 pounds to the Rt. Rev. Dr. Quinn of Brisbane.
The rest of my cash must be divided in equal parts among my nephews and nieces who actually live in Australia: namely the five children of my brother, Joseph Cleary, and the four children of my deceased brother, Daniel Cleary.

In witness to my Last Will and Testament expressed above, I have put my signature to this document on 8th May in the year of Our Lord, 1863.

James Cleary²¹

In a follow up letter to the Bishop, Mr. Cleary further explained the conditions of the Will:-

Maryborough
Wide Bay,
Queensland

17th May 1863

My Lord,

In the document of my Last Will and Testament, drawn up on 8th May 1863, I have left to Your Lordship a great part of my landed estate and of my household goods namely:

1. Three lots of land situated in the Bazaar Road, in Maryborough, comprising Numbers 5, 6 and 7 of Section 84.
2. Three other lots situated on Adelaide Road, comprising Numbers 14, 15 and 16 of 84, mentioned above.
3. My property of "Lorah" consisting of 25 acres of land, and the house in which I now live, with all its outbuildings.
4. Half of the horned cattle actually grazing in the Wongi
5. The third of my household goods (except my cash).
6. The sum of 20 pounds from this cash.

Now, My Lord, I wish to make known my intentions.

1. The lots of 5, 6 and 7 are to be evaluated, and from the derived interest, 80 pounds are to be paid, once and for all, to All Hallows Seminary in Dublin, Ireland, payable within three years.
In addition to this sum, a yearly allowance of 10 pounds is to be paid in perpetuity to the same seminary, from the day of my death.

After the payment of 80 pounds, and of the annual 10 pounds in favour of All Hallows, all the rest of the revenue of the above mentioned land will be placed in the Bank, and the interest accumulating shall be used for the building of a church in Maryborough, and for the refurbishing of the present chapel when required.

2. The three other lots of land will be reserved for the building of a church, a presbytery and lodgings for the Brothers of Christian Doctrine.
3. The property of "Lorah", and half of the horned cattle grazing in the "Wongi", will be used for the residence and maintenance of two priests at least, responsible for Maryborough parish, and one of them will be engaged in the mission centres around Maryborough when his presence is not required in the parish itself.
4. The priests who enjoy the property of "Lorah" will pay in perpetuity the annual sum of 90 pounds for the maintenance of three Brothers of Christian Doctrine. One of these Brothers will be specially employed in an Adult Education class every Sunday, and daily evening classes. This last establishment is to begin to function within the next two years. If it is postponed beyond two years - after the second year has expired - the sum of 90 pounds will be owing, and will be paid by quarterly instalments. 22 pounds 11 shillings will be paid at the end of every three months - and this money will be put in the Bank, to be used as possible for the establishment of the three Teaching Brothers.
5. The third part of my Household Goods will be used for the maintenance of the priests residing at Lorah.
6. The 20 pounds (given to the Bishop) are to be used as follows: 10 pounds for the work of the Propagation of the Faith - and 10 pounds for Masses to be said by the Parish Priest of Maryborough.

You see, My Lord, I must tell you that I am most anxious for my intentions to be carried out before my death and as soon as possible. This is why I inform you that I am ready to hand over without delay all my landed estate and my household goods, mentioned in the document, and which are to be used as decided above.

If it were your intention to establish at Lorah a community of Religious Priests, and for this aim, choose the Assumptionists, not only would I not be against such a decision, but I would be extremely pleased if you were to do so.

My intention is to live with the Priests at “Lorah” - but in the event of this intention meeting with difficulties, the above mentioned priests would pay me an annual pension of 70 pounds, and I would live privately.

I have the honour to be Your Lordship’s respectful servant.

J. Cleary²²

To keep the peace and benefit from the Will, Fr. Tissot also wrote to Bishop Quinn exhorting him to accept the terms as laid down by Mr. Cleary. In the letter, dated 3rd June 1863, he drew attention to Mr. Cleary’s insistence upon the need for the Christian Brothers to open a school in Maryborough. He also warned the Bishop of the difficulties regarding the ownership of the land on which the chapel was built (ie Section 84): “the parishioners claim this land as their property, but Mr. Cleary, acting as a goodwill -trustee of the parish claims he could act otherwise and change his Will in favour of his many nephews”. In conclusion, Fr. Tissot feels his Order could provide more Priests and Brothers for the Maryborough-Gayndah area and operate “Lorah” as a source of income.

However, in the words of Fr. Tissot, Bishop Quinn’s attitude was one of opposition and even cunning.²³ Nothing was done, and there the matter of the Will remained for several years.

More Clearys arrived in Maryborough. James’ brother Joseph and his wife Caroline moved around from Fremantle in Western Australia and were taken in to live at “Lorah”. It is not known if any of their five children accompanied them.

Before the foundation stone was laid for the new St Mary’s Church at the end of July 1869, James Cleary legally transferred his six town allotments of Section 84 to the trustees. One hundred and ten years later I saw the Land Deeds and the Indenture dated 15th July 1869 signed by “James Cleary” and sealed with the red wax stamp characteristic of the time.²⁴ At the foundation ceremony Bishop Quinn referred to the land as “handsomely presented by Mr James Cleary for the purpose.”²⁵

Some months later James Cleary was kicked by a horse. The “Chronicle” of Tuesday 14th September 1869 reported:-

We regret to have to record a sad accident that befell Mr. James Cleary of West Maryborough, the oldest resident in the place, and a colonist of thirty years standing. As we understand, Mr. Cleary having approached too close to a horse which was in a recumbent position,

was knocked down by the animal suddenly starting to its legs, and the shock was so violent as to cause his thigh bone to break close to the socket. Dr. Brown was soon after in attendance on the sufferer and it is satisfying to learn that the latter is progressing as favourably as can be expected. (He apparently made a reasonable recovery.)

Since Daniel Cleary's death in 1862, a son, James Cleary Junior had been living next door to "Lorah" at "Ormond" and working a property. At the age of 27 he was killed as a result of defending the rights of his black boy. The "Chronicles" of early February 1871 give details of the Inquest which revealed the sequence of events.

The unfortunate incident took place at a public house known at different times as "Richmond's", the "Robin Hood" and "The Crossroads". The hotel was situated at the fork of -"Old Gayndah Road and the Teebar road" - now the junction just out from Oakhurst where the unsealed North Aramara road leaves the main Biggenden-Gayndah road. The hotel was run by the widowed Mrs. Richmond, mother of eight children, and she was assisted by a male employee, John Penn, who served the drinks in the front taproom adjoining Mrs. Richmond's bedroom. Under the same roof were two other bedrooms while another room on the verandah was used as a schoolroom for the children. A nearby building contained a parlour and six more bedrooms for guests.

On a Thursday evening at about 6 p.m., 2nd February (of 1871), James Cleary Junior and his blackboy arrived on horseback at the "Robin Hood". They had been out looking for strayed stock. When Cleary and his blackboy entered the bar he called for drinks. A man known as Jim who had a wooden leg was already in the bar and was not sober but he said he would shout. John Penn served the drinks and claimed he recognized Cleary's blackboy as one of the aborigines who had plundered the hotel a short time before. He then went out the back to have a meal with Mrs. Richmond and the children while the other three stayed drinking in the bar "for some time". For some unexplained reason Cleary's blackboy is said to have struck the man known as Jim who was drunk. Penn ran in and put the blackboy out of the hotel. Cleary objected strongly and began to fight with Penn. They were rolling on the ground when Mrs. Richmond came round behind Cleary and struck him on the back of the head with a nulla-nulla. The blackboy then began to strike her with a stock whip but she ran at him with a piece of wood from the hotel verandah and smashed it over him till the wood broke before she ran into the tap room and locked the door. Penn's story was that when Cleary and the blackboy were about to ride away after the scuffle he went into the hotel and got the double-barrelled shotgun, loaded it, and went out to fire a shot not to shoot

Clery but to scare the blackboy away; but as he was holding the gun, Clery threw a large stone which hit his arm discharging the gun into "Jemmy" Clery's shoulder, perforating it.."

Clery rode off at dusk, a little after 7 p.m. Now sometime after 8 p.m. a man named Alexander Cameron, a roadworker who was camped half a mile from the "Robin Hood", on Six Mile Creek was going up to the hotel when he came across a horse with a saddle and bridle at the Creek. He then saw a black dog across the road and next he heard moaning. He found Clery about 100 yards farther on in a cutting at the side of the road. He immediately recognized Clery and knew that he lived about 5 or 6 miles in on the Maryborough side of the "Robin Hood". Cameron went and brought back a man named Mackay who had been working with him and they lifted Clery out before one of them went back to the camp for help. Clery managed to tell his rescuers that Penn had crept up and fired the gun from near his horse's tail. Someone then went down to the "Robin Hood" to arrange a bed while Clery was being brought on a cart. When at the hotel Penn saw Clery's condition he decided to ride into town for a doctor and give himself up. However two hours later he returned to say that he could not get a doctor nor find the police constable.

He was just back at the hotel when Joseph Clery, brother of the injured man, arrived at 11 p.m. The blackboy had ridden in for him. The next morning Joseph brought his injured brother in by spring cart to "Mrs Clery's house at 'Ormond'". Two doctors came to see him later in the morning and thought they might have to amputate his arm. They came again in the afternoon and decided to go ahead with the amputation. James was taken into the Maryborough Hospital (in Lennox Street, where the Army Drill Hall now stands) but he did not survive the operation. Penn was arrested and charged with murder.

The Funeral Notice in the "Chronicle" of Saturday 4th February, announced that the funeral of Mr. James Clery Jnr. would leave from his residence at West Maryborough. The report on the following Tuesday said that Fr. Tissot was in attendance and that the burial "of the nephew of one of our oldest residents" was probably the last to take place in the cemetery at the Old Township, "special permission having been obtained to bury the young man in the same grave as his late father who is also buried there". The Death Certificate reveals that James was a grazier aged 27 years, son of Daniel Clery and Bridget Hogan who had been born in Tipperary and had been resident in the Colony for 11 years.

The Inquest was held at the house of "Mr Clery Senr". The Police Court proceedings exonerated Mrs. Richmond but her 7 year old daughter Ellen who

witnessed part of the affray was taken from her and kept in police custody to give evidence at the trial eight months hence. At the Circuit Court in Maryborough in October, the little girl said that no stone had been thrown but that “a blackfellow had hit her mother”. Penn was found guilty of manslaughter and was given twenty years’ imprisonment to think over his crime.

A little over a year later, James Cleary Senior, the subject of this saga, died in April of 1872. The Death Notice in the “Chronicle” of the following day states:-

Death: On Friday, the 26th instant at Lora Marlborough, Mr. James Cleary, aged 78 years. May he rest in peace. The friends of the late Mr. James Cleary are respectfully invited to attend his funeral to move from his late residence on Sunday afternoon at half past three o’clock.

Arrangements were altered, as the account of the funeral in the “Chronicle” of Tuesday 30th April shows:-

On Sunday afternoon the remains of Mr. James Cleary were followed to their last resting place by a very large concourse of townspeople. The body was removed from the Roman Catholic Church where it had been lying since the morning, at about half past three in the afternoon, the cortege being headed by the school children and others to the number of 200 or 300; then followed thirteen or fourteen carriages and about 150 horsemen, two abreast, and a large number of persons on foot, the procession being quite half a mile in length and the number of people who attended the funeral must have been at least 600. The interment took place in a spot at the old township which had formerly been set apart by the deceased for that purpose, and where others of his family repose. The funeral ceremony was performed by the Rev. Dean Tissot assisted by the Rev. Father Kaercher and was of the most impressive kind. The deceased had been a resident of Maryborough for upwards of 23 years and might be said to have been “the oldest inhabitant” at the time of his decease. He was the first to import cattle into Wide Bay and had always identified himself with the progress of the town and district.

The third known but final Will had been made on 31st March 1872. Bishop Quinn might still have been hopeful. Unfortunately for him when a Codicil was added two weeks later it left a few shares to the Bishop but largely favoured his nephew, Joseph.

Part A of the Will, lists the following beneficiaries:-

To his brother Joseph he left 150 pounds, his horse, Phaeton, household furniture, plate, linen, farming implements etc., and to Joseph's wife, Caroline 50 pounds.

To his brother John Cleary of Lorrha, County Tipperary, 40 pounds.

To his sister Mary, widow of Michael Navan of Lorrha, County Tipperary, 30 pounds.

To his nephew, Joseph Cleary of West Maryborough, farmer, 200 pounds.

To the Maryborough Hospital, 10 pounds.

To Father Tissot, for charitable distribution to persons of any creed, 30 pounds.

To the Convent of All Hallows near Dublin, 20 pounds.

To the Convent of the Sisters of St. Joseph at Maryborough for the support and education of orphan children, 20 pounds.

Towards the erection in Maryborough of a school-house for the education of Roman Catholic boys, 50 pounds.

“And I give and bequeath all the rest and residue of my personal estate to the Right Rev. Bishop James Quinn, for the advancement of the Roman Catholic religion in Queensland”.

With regard to the land at West Maryborough, “being the north west division of my land and on which I now reside and as now fenced in by the boundary fence known as the late James Cleary Junior's and now in the occupancy of my said brother Joseph Cleary contains 10 acres or thereabouts for my brother Joseph during the term of his natural life, and after his decease, for the said Roman Catholic School. (All other land was left to Joseph Cleary, nephew)

Codicil B, dated 13th April 1872, “revoked the gift and bequest to the Right Rev. Bishop James Quinn, of the rest and residue of my personal estate and instead thereof, do give and bequeath unto Bishop James

Quinn all my interest in any share or shares or otherwise in the Mary River Gold Mining Company” and “the rest and residue of my personal estate I give to my nephew Joseph Cleary farmer of West Maryborough”.

The estate did not exceed 1,900 pounds in value.²⁷

Joseph Senior, (James’ brother) “a farmer who lived near the old township,” died by drowning at the age of 71 on 1st November, 1877.

The three Cleary brothers, James, Daniel, and Joseph, were now dead. So also was James’ favourite nephew, James Junior, who was killed in 1871. The only Cleary left was James’ youngest nephew, Joseph Junior, who married in 1872.

Joseph Cleary Senior retained only a life long interest in the 10 acres of “Lorah”. Then it was to become the property of the Church and to be used for “a Roman Catholic School”. Ten years after Joseph’s death that is what did happen. The “Australasian” of 1887 in a report entitled “Catholicity in the Mary Valley” refers to the property: A late worthy citizen of Maryborough left as endowment for a Catholic Boys School, eleven acres of valuable land on the banks of the Mary River and situated in the old township. It does not take much foreseeing to satisfy oneself on the revenue derivable in the near future, from such a large piece of land so located.³¹ The “late worthy citizen” was no doubt James Cleary.

During 1887 arrangements were being made by Fr. O’Reilly for the Christian Brothers to come to Maryborough and open a school. The Cleary land “Lorah” was sold and other land was acquired in the central part of the town.

As long as the Christian Brothers resided in Maryborough (1888-1989) a visitor to their house in Lennox Street could see affixed to a wall in the Chapel a list of “Benefactors of the School”. Amongst the two dozen names was that of “Mr. James Cleary”.

It appears that about the time of the death of Joseph Cleary Senior other property passed to the Church. In a report to Rome in 1878 Bishop Quinn like Archbishop Polding recommended that Maryborough be the centre of a new diocese. In its favour he wrote:- “Maryborough has likewise a landed estate, lately acquired of over 3,000 acres. It is the property of the Sisters of Mercy, but they and whatever they possess belong to the Diocese in which they reside. estimate the annual revenue of the place under good management at 1,000 pounds”.³³

The property was obviously “Coolreagh” once part of James Cleary’s “Marianna”. Mr. Lambert Hyne (of the Maryborough Sawmilling Firm) takes up the story:-

“In a change of lifestyle, ‘H.J. I. (Hyne) settled upon the idea of a country estate. He looked around and found a suitable property within buggy-driving distance, named “Coolreagh”, about fifteen miles from Maryborough on the Teebar road. The property had been the horse paddock of old “Marianna” station (taken up in the 1840s by John Graham who gave his name to the nearby Graham’s Creek) and was then owned by the Sisters of Mercy; they had acquired it through the Will of an old Irish bachelor Patrick (sic) Cleary. The property was approximately 1,800 acres in extent and largely unimproved. He bought “Coolreagh” in 1906 at the rate of 13/6 per acre on a deposit of 50 pounds”.³⁴

“Joseph Junior” was still living at “Coolreagh” in 1879. It is from him that subsequent Clearys descend. He later owned the Imperial Hotel and the family lived nearby at 44 Walker Street near the Maryborough convent. He was President of the local Hibernian Society and would also drive the Sisters of Mercy around town in his phaeton. He died at the age of 80 in 1925.

Two of his children, Daniel and Emily (Mrs. W. Brett) were present for the blessing of the re-modelled St Mary’s Church in November of 1936. Monsignor McCarthy referred to the fact that “the present site of the church had been a gift by the late Mr. James Cleary. Though he had long gone to his reward, members of the family were still actively associated with St Mary’s. They included Mr. D.Cleary and Mrs. W. Brett”.

Daniel died in 1946 aged 64 years. Although not as wealthy as James, he inherited the Cleary generosity to the Church: he left 400 pounds to be distributed by Archbishop Duhig among eight Catholic causes including Aged Priests, Banyo Seminary and Leper Missionaries.³⁵

The daughter of another son (Joseph Patrick Cleary, b 1879), Aileen (Sr M Peter of the Good Samaritan Order) wrote:-

Yes, the James Cleary who donated the land, for the Church in Maryborough was my father’s bachelor grand-uncle. He, my grandfather, and other members of his family were some of the early pioneers of the district. I remember as a child seeing a very large Bible autographed by Archbishop Polding which had been given to the family, probably for some service rendered to the Church. Every time we met

Archbishop Duhig either during school days or later when he used to look up the Queenslanders on his visits to Canberra, he would tell us of Uncle James' generosity.³⁶

James Cleary's generosity might be said to have benefited the Church again in 1972 when the former government land grant (Section 85, allotments 1, 2 and 3) on the corner of Adelaide and Sussex Streets was sold to Woolworths for \$155,000. A new presbytery and parish hall was then built on the Cleary land at the side of the Church.

The time came when all Clearys had moved away from Maryborough. There was no Cleary Street, no Cleary headstone in the old cemetery, no memorial in St Mary's Church. In spite of "warts and all", was the name of James Cleary, a pioneer of the town and a generous benefactor to the Church, to pass into oblivion?

In 1988, after years of "rediscovering James and the Clearys", finding the site of "Lorah", unearthing old bottles where the "Robin Hood" Hotel was situated, and looking around "Coolreagh", I had a brass memorial plate fitted near the front door of St Mary's Church. It reads:-

"In Memory of
the Pioneer Catholic and Generous Benefactor
James Cleary
who died on 26th April, 1872.
He was buried from this Church
for which he had donated the land".

Endnotes:-

- 1 Cardinal Moran's "History of the Catholic Church in Australasia", 1896, pp 595, 596.
2. Searches have failed to find any record of a James Cleary who corresponds with the subject of these notes.
There is a record of a 'bounty' immigrant, a James Cleary from the 'Barony of Lower Ormond', aged 29 years. He arrived in Sydney on the ship "Forth" on 28th August, 1841. His occupation is 'Shepherd', his religion is R.C., baptized in April 1812 by Cornelius O'Brien. Notes add that his parents were James (dead) and Mary, and he "can read and write and keep books".
3. Shipping list of the "Sea", 1849, when Daniel Cleary and his family migrated to Sydney, states that "a brother James is living in Brisbane".
4. George E. Loyau, "The History of Maryborough," 1897, pg 227.
5. Loyau, p. 376.
6. "Maryborough Chronicle", 12th April 1870. "Reminiscences of a Wide Bay Pioneer".
7. State Library, Reel AZ-26, Nos 702/703.
8. Loyau pg 313.
9. Loyau pg 315.
10. The Government Land Grant, (Section 85, Allotments 1, 2 and 3) was surveyed by Buchanan in 1859 and finalized in 1863.
11. "Maryborough Chronicle", 12th April 1870.
12. Polding's letter quoted by Moran, pgs 595, 596.
13. Baptismal Register, St Stephen's Cathedral, Brisbane.
14. N.E. Buettel, "A History of Maryborough", 1976, pg 164.
15. Loyau, pg 216.
16. Fr. Tissot's letters of 13th August 1861, and 10th July 1862, Augustinians of the Assumption Archives, Rome.
17. Fr. Tissot's letter of 28th December 1862.
18. Fr. Tissot's letter of 9th February 1863.
19. Brisbane Catholic Archives.
20. "Queensland Times", 12th August 1862.
21. Enclosed with Fr. Tissot's letter of 7th May 1863.
22. Enclosed with Fr. Tissot's letter of 3rd June 1863.
23. Fr. Tissot's letter of 15th September 1863.
24. In the custody of Corser, Sheldon & Gordon, Solicitors, Maryborough.
25. "Maryborough Chronicle", 29th July 1869.
26. Document of Will, No 686, Supreme Court, Brisbane.
27. Document of Will, No 781, Supreme Court, Brisbane.
28. On the "Sea" shipping list (1849) there is a Morgan aged 15 years. On Daniel Cleary's Death Certificate there is John aged 25 and a John "deceased". Helen Rogers researched this.

29. Fr. Tissot's letter of 13th August 1875.
30. Site then occupied by Dairy King Ice Cream depot of 574 Alice Street, Baddow, Section 26, "Lorah" in a survey of 1875 was bounded by the Mary River, Juno Street, Queen Street; and Neptune Street.
Section 27, "Ormond" was bounded by the Mary River, Cherry Street, Queen Street and Juno Street.
31. Undated cutting, Brisbane Catholic Archives.
32. Bishop Dunne's Diary, Brisbane Catholic Archives.
33. Moran, pgs 621 and 622.
34. J.R.L. Hyne, "Hyne-Sight" (1980), pg 55. There was a Patrick Cleary, a Brisbane Sergeant of Police who, in a Will of January 1898 left property to the value of about 3,000 pounds to the Archdiocese of Brisbane. He does not seem to be related to the Maryborough Clearys.
35. The eight children of Daniel and Margaret Cleary were:-
(1) Bridget (b 1873 and became ' Mrs. D. O'Neill of Kingaroy), (2) Mary (b 1875, entered the Sisters of Mercy at Monte Sant Angelo in Sydney. As Sr. M. Louis, she was Matron of the Mater Private Hospital, North Shore, Sydney). (3) James (b 1876, became a chemist, married and moved to N.S.W.). (4) Joseph Patrick (b 1879, was a blacksmith and locomotive driver in the Q.R. In 1912 he went to the Northern Territory to manage a hotel for a few years. He also spent some time in Dirranbandi. His three daughters, Aileen, Myolene and Patricia boarded at the Maryborough Convent. Aileen entered the Good Samaritan Order in Sydney as Sr. M. Peter, Myolene became Mrs. J. Carroll of Kingaroy, and Patricia became Mrs. J. Ryan of Sydney). (5) Daniel was a labourer in the Q.R., (b 1882 d 1946). (6) Emily became Mrs. W. Brett. (7) Harry married and went to Mackay, and (8) Charles died in infancy.
36. Letters of Sr. M. Peter (Aileen Cleary), 20th February 1980, and 19th January 1981.